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Promotion and protection of human rights: implementation of human rights instruments

Protection of migrants

Report of the Secretary-General**

Summary

The present report, submitted in accordance with General Assembly resolution 61/165, contains a summary of communications received from the Governments of Azerbaijan, Colombia, Croatia, Cuba, Ecuador, France, Germany, Greece, Japan, Mexico, Morocco, Spain, the Philippines and the Venezuela (Bolivarian Republic of) in response to a note verbale sent on 28 June 2007 by the Office of the United Nations High Commissioner for Human Rights.

The Secretary-General also reports on the status of ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the activities of the Special Rapporteur on the human rights of migrants and the activities of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

In his conclusions and recommendations, the Secretary-General commends the work of the Committee and urges Member States that have not done so to adhere to the Convention.

* A/62/150.
** The reason for the late submission of this report is to reflect the latest information.

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I. Introduction

1. In paragraph 15 of General Assembly resolution 61/165, the Assembly requested the Secretary-General to submit a report to it at its sixty-second session on the implementation of the resolution and decided to examine the question further under the item entitled "Promotion and protection of human rights". Accordingly, the Office of the United Nations High Commissioner for Human Rights, on 28 June 2007, transmitted a note verbale to Member States, on behalf of the Secretary-General, requesting information on the implementation of the resolution for inclusion in the present report.

II. Information from Governments

2. As of 23 August 2007, the Governments of the following Member States had replied to the note verbale: Azerbaijan, Colombia, Croatia, Cuba, Ecuador, France, Germany, Greece, Japan, Mexico, Morocco, Spain, Philippines and Venezuela (Bolivarian Republic of). Relevant extracts of the responses are given below. The full text of the responses is available upon request at the Office of the United Nations High Commissioner for Human Rights.

Azerbaijan

3. The Government of Azerbaijan reported that Azerbaijan's migration law comprises the Immigration Act, the Labour Migration Act, the Immigrant Status in the Republic of Azerbaijan (Documentation Requirements) Act, the Aliens and Stateless Persons (Legal Status) Act, and the Act ratifying the regulations on the transit of aliens and stateless persons through the territory of the Republic of Azerbaijan.

4. The Government also reported on its ratification of international instruments, inter alia the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

5. The Government reported that Azerbaijan had signed bilateral agreements relating to labour migration with Belarus, Kazakhstan, Moldova and Ukraine. Information was also provided on the plan for action-oriented measures for the year 2007 that has been concluded with the Russian Federation.

6. The Government reported that the import and export by migrant workers of their earnings and of items purchased with those earnings, of household goods and of the essential tools of their trade are not subject to taxation.

7. Pursuant to the Aliens and Stateless Persons (Legal Status) Act of 13 March 1996, aliens and stateless persons in the Republic of Azerbaijan are equal before the law and the courts.

8. Information was also provided regarding the State Programme on Migration for the period 2006-2008 and the National Plan of Action for the protection of human rights.

Colombia

9. The Government of Colombia reported that it had ratified a number of international instruments, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the United Nations Convention against Transnational Organized Crime and one of the protocols thereto, namely the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

10. The Colombian Ministry of Foreign Affairs supplied information on the programme *Colombia nos Une* ("Colombia Unites Us"), which is intended to strengthen ties with Colombian communities living abroad.

11. Information was given on the bilateral social protection agreements signed with Spain, Chile and Uruguay.

12. In the framework of the *Colombia nos Une* programme, a project was carried out for the exchange of experiences on the subject of migration with a view to identifying best practices on the part of migrants' home and host countries. Cooperation in this area was carried out with institutions such as the Institute for Mexicans Living Abroad. It should be noted that the Government of Colombia has followed with interest the programme *Vete sano, regresa sano* ("Leave healthy, return healthy") carried out by Mexico's Office of the Deputy Minister of Preventive Health and Wellness. This is a preventive health programme for migrants and their families in their countries of origin and in transit and destination countries.

13. The Government described the content of Law No. 191 of 1995, containing provisions on border areas, article 2 of which sets out the obligation of the Colombian authorities to gear their actions towards the protection of human rights.

14. The Government supplied information on the various agreements it had concluded on the subject of migration. One of them is the social security agreement between the Republic of Colombia and the Kingdom of Spain, under which workers from either country can pay contributions into their national pension systems. Moreover, the Government of Colombia also signed an agreement with the Western Union affiliate in Colombia, with the result that, as from January 2007, Colombians living in the United States can pay their pension contributions to the Social Security Institute of Colombia through Western Union money transfer offices. Efforts are being made to make this service available throughout the world.

15. The Government also reported that an agreement had been signed between Colombia and Spain concerning the regulation and management of migration flows. The agreement gives Colombian workers a legal framework for labour protection, thereby preserving their right to decent and favourable working conditions.

16. Lastly, the Government furnished information on investment and savings alternatives in Colombia for Colombian nationals living abroad.

Croatia

17. The Government of Croatia reported that the Constitution guarantees the protection of the basic human rights and fundamental freedoms of migrants. The Government also reported that its domestic legislation prohibits discrimination at different levels.

18. The Government also reported that the Republic of Croatia had passed the Asylum Act in 2003 (*Official Gazette*, No. 103/03), which stipulates conditions and procedures for the recognition and revocation of asylum and temporary protection. In the framework of asylum and migration, the Ministry of the Interior cooperates with several organizations, including the office in the Republic of Croatia of the Office of the United Nations High Commissioner for Refugees, the Mission of the International Organization for Migration and the non-governmental organization Croatian Law Centre, which provides legal aid in the asylum procedure.

19. The Government also reported that on 13 July 2007, the Parliament had adopted the New Aliens Act, which will enter into force in January 2008. The new law introduces subsidiary protection and a single procedure for the examination of asylum applications, and conditions for the approval of subsidiary protection. The new law has extended, inter alia, the right to education and the right to family reunification. It also regulates conditions of entry and movement, as well as work permits for aliens in Croatia.

20. The Government provided further information regarding the harmonization of the New Aliens Act with international regulations, inter alia Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents, Council Directive 2003/86/EC on the right to family reunification, Council Directive 2004/38/EC on the right of citizens of the European Union and their family members to move and reside freely within the territory of the member States, and Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings.

21. Additional information was provided regarding work permits for aliens, which are issued on the basis of an annual quota determined by the Government of Croatia.

22. The Government also reported that further legal protection of migrants is also provided by the Criminal Code. In that regard, article 106 protects the equality of citizens, protecting their rights and freedoms; article 175 refers to trafficking in human beings and slavery; and article 177 deals with illegal transfer of persons across the State borders.

23. Regarding trafficking in human beings, the national legislation provides aliens who have been victims of trafficking and have been granted temporary residence with safe accommodation, health care, financial support, education and opportunities to work. Vulnerable groups like women, children and disabled persons are granted special protection measures.

Cuba

24. The Cuban Government has held a series of conferences on migration-related issues. This series, called "The Nation and Emigration", took place in 1994, 1995 and 2004. At the most recent conference, the following measures were adopted: an office was established under the Ministry of Foreign Affairs to serve the needs of Cuban citizens living abroad, various measures were adopted to maximize the effectiveness of customs transit procedures and a university scholarship programme was established for the children of Cuban emigrants.

25. The Government reported on the regulation of migration flows in the country, which is carried out with a view to safeguarding security and providing all the required guarantees of protection, bearing in mind at all times the need to comply

with the provisions of international instruments. The measures taken by the Government to regulate migration flows include, among others: free medical care for migrants at various points along the country's border, documentation control mechanisms for persons entering or leaving the country and the implementation of the international measures adopted with respect to human trafficking and drug trafficking activities.

26. In addition, the Government reported on the implementation of a special plan for camp services to assist migrants who reach Cuban shores. The plan provides for primary health care, food distribution and arrangements for the return of such migrants to their home countries while preserving their dignity and safety.

27. The legal framework governing migration in Cuba consists of the Immigration Act and the Aliens Act (Nos. 1312 and 1313) of 1976.

28. Lastly, the Government reported that it had acceded to International Labour Organization (ILO) Convention No. 97 concerning migration for employment (revised 1949).

Ecuador

29. The Government of Ecuador reported that two national plans had been formulated. The first, known as the National Plan to Combat the Smuggling of Migrants, the Sexual, Labour and Other Forms of Exploitation and Prostitution of Women, Children and Adolescents, Child Pornography and Corruption of Minors, entered into force in October 2006. This national plan has been put in place to implement the United Nations Convention against Transnational Organized Crime, its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and its Protocol against the Smuggling of Migrants by Land, Sea and Air.

30. The plan includes measures to prevent, investigate and punish such activities and to protect the rights of victims and provide reparation.

31. The second plan, known as the National Plan for Ecuadorians Living Abroad, includes various measures to protect Ecuadorian citizens working abroad, thereby safeguarding the rights of Ecuadorian citizens who decide to migrate to other countries, as well as the rights of their families. These measures provide, inter alia, for family reunification, the conclusion of agreements with host countries, mechanisms enabling migrants to invest their savings in Ecuador and programmes to protect them against trafficking in persons.

32. Lastly, the Government furnished information on the different cooperation activities on migration which it has carried out with other countries, civil society and international organizations. They include activities for the management of migration flows, processes of regulating migrant workers in Ecuador and programmes of voluntary return to Ecuador.

France

33. In their reply, the French authorities recall that France is committed to respecting the fundamental freedoms of migrants and is one of the few Council of Europe countries to have ratified the 1983 European Convention on the Legal Status of Migrant Workers.

34. With respect to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the French Government states that France still has reservations about signing it because the Convention's scope would cover, without distinction, both regular and irregular migrants. At the same time, France considers that it cannot ratify the Convention alone, but must do so together with all its European partners, insofar as the European Union has had jurisdiction over migration and asylum since the Treaty of Amsterdam entered into force.

Germany

35. The Government of Germany reported on the ratification of several international instruments, inter alia the United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air complementing the Convention.

36. In an effort to combat acts of racism, racial discrimination, xenophobia and related intolerance, as stated in paragraph 10 of General Assembly resolution 61/165, the Government of Germany has adopted several measures, inter alia policies to promote the integration of foreigners, measures to strengthen the civil society, and a dialogue between Government and non-governmental organizations through the Forum Against Racism, which was established in 1998 and currently is composed of 80 organizations active nationwide in combating racism, xenophobia and related intolerance.

37. Regarding the measures to promote the integration of migrants, information was provided on the new immigration laws, labour market integration and the development of a counselling and information network. In that regard, the Immigration Act of January 2005 for the first time introduced provisions for the integration of migrants in Germany. The core component of the Government integration policies is the integration course encompassing a language course and an orientation course. Migrants who successfully complete the integration course may be naturalized after seven years instead of eight.

38. The Government also provided information regarding the recent reform of the Immigration Act and information on the new measures that have been included in order for migrants to benefit from the Government's integration measures.

39. The Government reported that new measures have been adopted to implement 11 European Union Directives regarding the right to remain in Germany. Foreigners whose deportation had been suspended for years now have the opportunity to obtain legal residence in Germany.

40. The Government also provided information regarding employment programmes and details of the measures that have been taken to reduce unemployment among migrants, inter alia the introduction of technical language courses to improve the language skills of young migrants and measures to support unemployed young people without qualifications and those who have given up vocational training.

41. Lastly, the Government reported on the new legal instruments created by the new Immigration Act to obtain the right of residence for the purpose of employment. The previous double authorization procedure to obtain the right to

work and the right to reside in Germany will be replaced by a new mechanism that allows work permits to be issued along with residence permits by the same authority.

Greece

42. The Government of Greece reported that migration issues are regulated by the Greek Migration Law (3386/2005).

43. The Government provided information regarding the bilateral agreements on employment concluded by Greece with Egypt, Albania and Bulgaria, which regulate the seasonal employment of citizens of those countries.

44. The Government reported on the cooperation carried out with the countries of origin of migrants. In this framework, the Government provided information regarding the two programmes in which the Ministry of Internal Affairs, Public Administration and Decentralization participates: Combating irregular migration in Albania and the wider region; Targeted support to capacity-building within the framework of readmission support to Albania (implemented by the International Organization for Migration and cofinanced by the European Union and Greece), and Building on mechanisms to effectively and sustainably implement readmission agreements between Albania, the European Union and the concerned third countries.

45. The Government reported that family reunification is regulated by presidential decree 131/13.07.2006. Council Directive 2003/86/EC of 22 September 2003 on family reunification has been incorporated in national legislation.

46. Information was also provided regarding the actions carried out on human trafficking issues. Provisions of the Greek Migration Law (3386/2005) provides victims of human trafficking with residence permits and the right to accede to the labour market, vocational training, education and health care. Directive 2004/81/EC on residence permits issued to third-country nationals who are victims of human trafficking has also been incorporated in national legislation.

47. The Ministry of Internal Affairs, Public Administration and Decentralization implements a programme of action for the integration of citizens of third countries who reside legally in Greece. The actions within this framework are implemented at all administrative levels (central, regional, local) with the participation of the civil society.

Japan

48. The Government of Japan reported on border security measures, inter alia the rules and regulations regarding the use of weapons, the Police Duties Execution Law, the legal obligation of lifesaving in case of marine accident and measures to protect the human rights of migrants while in transit through national borders.

49. Regarding the use of weapons, the Government reported that the Immigration Control and Refugee Recognition Act (Immigration Act), which entered into force on 12 July 2005, is the law applicable to officers in charge of immigration control. The provisions regarding the use of weapons are provided in article 61-4 of this act. Provisions regarding the use of weapons by the Japan Coast Guard are provided in article 20 of the Japan Coast Guard Law.

50. The Government reported that the Parliament had approved Japan joining the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. After the relevant laws are amended the Government will join the Protocol as soon as possible.

51. The Government also reported on the deportation procedures in Japan. The Immigration Act sets out individualized expulsion procedures for vulnerable persons.

52. The Government also reported on the procedures for the expulsion of non-nationals to countries other than their countries of origin, regulated in articles 52 and 53 of the Immigration Act.

53. The Government also provided further details regarding the special legal protection granted to the victims of trafficking under the Immigration Law (arts. 5, 24, 12 and 50).

54. Information was provided regarding initiatives taken with a view to promoting and protecting the human rights and fundamental freedoms of all migrants, regardless of their immigration status. For example, children of non-nationals can enter a public primary or secondary school without cost, as prescribed by article 28 of the Convention on the Rights of the Child. With regard to access to the justice system, according to the Japanese Code of Civil Procedures, non-nationals who have filed civil suits in Japan are entitled to continue the proceedings after leaving Japan. All regulations and laws concerning labour standards, such as the Labour Standards Law, are applied to all workers in Japan regardless of their nationality, including undocumented migrant workers.

55. Lastly, the Government reported on the establishment of the Human Rights Counselling Offices for Foreign Nationals which investigate cases of violations of human rights of foreign nationals.

Mexico

56. The Government of Mexico reported on the activities of the National Institute for Migration, the body responsible for implementing the Government's migration policies.

57. The Government highlighted the Institute's participation in the Inter-Agency Programme for Children in Border Areas, which has been in operation since 1996. The Programme is coordinated by the National System for Integral Family Development and the Ministry of Foreign Affairs. A strategy for migrant children along the southern border is being implemented under this programme. The Government also provided information on the Border Worker Migration Form programme, which is aimed at regularizing the status of foreign workers so that they can work in various economic sectors along Mexico's southern border.

58. The Government reported on the initiatives under way to combat trafficking in persons, in collaboration with a number of international organizations such as the Organization of American States (OAS), the International Organization for Migration (IOM) and the Inter-American Commission of Women (IACW). The Government also participates in joint operations, together with the Office of the

Attorney-General of the Republic and the Federal Preventive Police, to combat the smuggling of migrants.

59. The Government furnished information on programmes to train public officials working in migration-related areas. The Government also reported on the activities of the Beta Groups established in 1990 under the coordination of the National Institute for Migration in order to protect migrants' rights.

60. The Government also supplied information on the programme to improve migrant detention facilities (*estaciones migratorias*), aimed at improving the condition of centres that receive undocumented migrants.

61. With respect to international, regional and bilateral cooperation, the Government highlighted the memorandum of understanding concluded between Mexico, El Salvador, Guatemala, Honduras and Nicaragua, which establishes a secure legal mechanism for the repatriation of migrants.

62. As to the measures taken with regard to discrimination, the Government highlighted the Federal Prevention and Elimination of Discrimination Act adopted in 2003, which gave rise to the establishment of the National Council for the Prevention of Discrimination. It also provided information on the project "Strategic agenda for the prevention of discrimination against refugees, migrants and aliens in Mexico".

63. The Government also gave information on the activities of the National Human Rights Commission, the competent body in Mexico to receive and investigate complaints concerning alleged human rights violations on the part of federal authorities and civil servants, and on the various inter-agency cooperation and assistance agreements signed by the Commission, including one with the Office of the Human Rights Ombudsman in El Salvador and the technical support agreement signed with the Office of the Human Rights Ombudsman in Nicaragua.

Morocco

64. The Moroccan Government reported that the legislative framework governing the entry and stay of aliens in Morocco and irregular emigration and immigration consists of Law No. 02-03, which entered into force in November 2003. This law provides special protection in terms of respect for the rights of migrants, in particular vulnerable groups such as children and pregnant women. The law also contains provisions to combat the smuggling of migrants.

65. With respect to the ratification of international conventions concerning migrants' rights and accession to regional and bilateral conventions, it should be noted that Morocco was one of the first countries to sign, on 15 August 1991, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In addition, in 2002 Morocco ratified the United Nations Convention against Transnational Organized Crime. All the provisions of that Convention for combating offences linked to organized crime have been incorporated into Moroccan criminal law. Morocco is now in the final stage of the process of acceding to the two protocols additional to that Convention.

66. With respect to bilateral and multilateral cooperation, the Moroccan Government carries out a number of actions to enhance its understanding of migratory trends. Accordingly, Morocco is actively involved in all regional and

international consultation processes on migration, including the Western Mediterranean ("5 + 5") Dialogue on Migration (the Conferences of Ministers of the Interior of the Western Mediterranean and the Ministerial Conferences of the Dialogue on Migration), ongoing partnership with the International Organization for Migration (IOM) and the efforts under way in the context of the Global Commission on International Migration.

67. The Moroccan authorities' priority areas of action are efforts to combat illegal immigration, the eradication of criminal human trafficking networks, the policy of voluntary return of migrants to their countries of origin and operations to rescue migrants at sea.

68. In 2006 the Ministry of the Interior and the Consultative Council on Human Rights launched a training initiative on the protection of migrants' rights for law enforcement personnel responsible for combating illegal migration.

69. In terms of international, regional or bilateral cooperation and dialogue, Morocco collaborated with its European and African partners in organizing the Euro-African Ministerial Conference on Migration and Development, held in Rabat in July 2006. A plan of action on legal migration, measures to facilitate legal migration and steps to strengthen cooperation to combat migrant smuggling networks and human trafficking networks were adopted at that Conference. The Moroccan Government also reported that it had contributed to the work of the Euro-African Ministerial Conference on Migration and Development held in Tripoli in November 2006, in the framework of migration issues.

70. In terms of combating manifestations and acts of racism, racial discrimination, xenophobia and intolerance, Morocco undertook an exercise in harmonizing its domestic legislation with international conventions, including the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

71. Lastly, Morocco indicated that its domestic legislation provides for measures protecting the rights of migrants (Law No. 02-03 on migration, Penal Code, Labour Code, provisions concerning mixed marriages, civil status, trade and public freedoms). Morocco guarantees the transfer of funds by migrants to their country of origin or any other country.

Spain

72. The Government of Spain reported on the legislation in force in Spain with respect to migration (article 13.1 of the Spanish Constitution and Organic Law No. 4/2000 on the rights, freedoms and social integration of aliens in Spain).

73. The Government provided information on various regulatory provisions that afford special protection to vulnerable groups such as women migrants and unaccompanied minor aliens. Immigration regulations include various protection measures for women migrants, regardless of their administrative status in the country: the right to health care and basic social services, free basic education and the right to due process, among others.

74. Organic Law No. 4/2000 provides for access to an independent residence for women aliens who are victims of domestic violence and special measures to protect

women migrants with irregular status in Spain if they have been victims of sexual exploitation.

75. The Protocol for addressing the situation and facilitating the repatriation of unaccompanied minor aliens, adopted on 12 December 2002 by Children's Watch (a collegiate body attached to the Ministry of Labour and Social Affairs), lays the foundation for the coordination of the activities of the competent bodies in this area.

76. The Government indicated that it had ratified a number of international instruments, including the United Nations Convention against Transnational Organized Crime. The country's legislation also provides for measures to combat irregular migration and illicit trafficking in persons (amended articles 318 and 318 bis of the Penal Code, reform of Organic Law No. 4/2000 by Organic Law No. 14/2003).

77. The Government also gave information on the various bilateral agreements it has signed on the repatriation of aliens and the regulation of irregular migration flows. In this connection, it has signed cooperation and readmittance agreements in the area of immigration with Morocco, Mauritania, Algeria, Nigeria, Guinea-Bissau, Gambia, Guinea and Cape Verde.

78. Notable initiatives at the multilateral level include the Euro-African Ministerial Conference on Migration and Development, held in Rabat in July 2006, which Spain helped to organize and which brought together countries of origin, transit and destination to seek consensus-based solutions. In addition, the Spanish Government has promoted, in the framework of the European Union, the implementation of the Cotonou Agreement. Spain also participates actively in the 5 + 5 Dialogue, a regional cooperation forum on the legal management of migration and integration processes.

79. The Government also reported on Plan Africa, which was adopted by the Council of Ministers on 19 May 2006 and is aimed, inter alia, at fostering cooperation with African countries in regulating migration flows.

80. The Government provided information on training courses on the subject of immigration, borders and asylum, which are given to officials working in areas directly related to migration.

81. In 2005 the Secretariat of State for Immigration and Emigration established the Spanish Monitoring Centre on Racism and Xenophobia. Law No. 42/1997 on the Labour and Social Security Inspectorate helps to ensure due compliance with the rules on migratory movements and the employment of aliens. Organic Law No. 4/2000 guarantees, in its article 15.2, the right of aliens legally residing in Spain to transfer their savings to their home country or any other country, provided that the procedures established under Spanish law and international treaties are respected.

82. The Strategic Plan for Civic Integration 2007-2010 is the frame of reference for policies to integrate the migrant population. The Government also provided information on the Support Fund for the Reception and Integration of Immigrants, the educational support programme and the Forum for the Social Integration of Immigrants.

The Philippines

83. The Government of the Philippines reported that it has already adopted several migration policies in order to cover the rights guaranteed under the Convention on the Protection of the Rights of All Migrant Workers and Members of Their families. In that regard, the Government has strengthened its labour laws, enacting Republic Act No. 8042 on June 1995, the Migrant Workers' Act, and has implemented programmes in order to protect the rights of the migrants and their families. Inter alia, the law lays down the minimum conditions under which deployment of overseas workers is to be allowed, assures that the Foreign Service shall give protective services to both legal and undocumented workers and institutionalizes the adoption by embassies and consulates of the Philippines a "country-team approach".

84. The Government reported that Republic Act No. 8042 provided for the creation of the Office of the Under-Secretary for Migrant Workers' Affairs. The Office serves as the focal point of assistance-to-nationals concerns. Section 19 of the Act provided for the establishment of the Overseas Filipinos Resource Center, which offers information and legal services, promotes social integration, develops gender programmes and monitors daily situations affecting migrant workers. The Act also provided for the system of repatriation of workers and the mandatory repatriation of underage migrant workers. The Office established an emergency repatriation fund for the repatriation of workers in situations of war, epidemic, disaster or calamity.

85. The Government also reported that the Program for Overseas Filipino Workers organizes several strategies to support Filipinos who wish to work abroad, for example, pre-departure orientation seminars on travel procedures and migrants' rights; a pre-employment orientation programme that informs applicants about searching legally for work abroad, legislation on migration in those countries, travel procedures and remittance procedures; the Anti-illegal Recruitment Program, with preventive and remedial components; and post-departure seminars aimed at providing migrants with information to facilitate settlement in a new country. Information was also provided regarding social security programmes, bilateral social security agreements signed with eight countries, and overseas workers welfare administration programmes for insurance and health-care benefits and reintegration programmes upon return.

86. The Government also reported on access to education for migrants. In that regard information was provided on the Filipino Education and Heritage Program that provides schooling for children of overseas Filipinos.

87. On 13 February 2003, Republic Act No. 9189, known as the Overseas Absentee Voting Act of 2003, was enacted into law. This law guarantees the rights of all overseas Filipino workers to participate in public affairs of the Philippines. Also enacted was Republic Act No. 9208, known as the Anti-Trafficking in Persons Act of 2003, which criminalizes trafficking in persons and provides for mechanisms to rescue irregular Filipino migrant workers.

88. Lastly, agreements with several countries to avoid double taxation and prevent tax evasion have been signed.

Bolivarian Republic of Venezuela

89. The Venezuelan Government reported that the Ministry of the People's Power for Internal Relations and Justice, in coordination with the Ministries of the People's Power for Foreign Affairs, Defence and Labour and Social Security, are the bodies that have jurisdiction over migration issues.

90. The Government also reported on the promulgation, by Decree No. 2,823 of 3 February 2004, of a set of rules for the regulation and naturalization of aliens in the national territory, which governs migration status in the Bolivarian Republic of Venezuela; the establishment of an employment benefit system that offers migrants special employment services; and the organization of a national campaign on the rights and duties of migrant workers and their families in the Bolivarian Republic of Venezuela.

91. The Government also provided information on the various administrative measures being carried out to manage migration flows more effectively. These measures include the introduction of an automated system for issuing work permits for foreign workers, the interconnected system of the employment agency network, the creation of an interconnected database with the National Customs and Tax Administration Service, the National Identification and Immigration Office and the Venezuelan Social Security Institute, and the updating of mechanisms and procedures for controlling migration flows.

92. The Government also indicated that it had acceded to the United Nations Convention against Transnational Organized Crime, its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and its Protocol against the Smuggling of Migrants by Land, Sea and Air.

93. The Government provided information on the Foreign Exchange Administration Commission, the body responsible for the control of procedures for sending and receiving migrant remittances. This Commission ensures that such transactions are carried out in accordance with the relevant legal requirements and that no restrictions or obstacles prevent such funds from being transferred to the recipient countries.

94. The Government supplied information on the organization of the seventh South American Conference on Migration (Caracas, July 2007). The participants in the Conference adopted the Caracas Declaration, which takes an innovative approach by establishing the principle of historical reciprocity, under which host countries agree to give migrants the same treatment received by their own nationals in other South American countries to which they have migrated, bearing in mind the need to respect their human rights.

III. Activities of the Special Rapporteur on the human rights of migrants

95. The activities of the Special Rapporteur are carried out in accordance with Commission on Human Rights resolution 1999/44,[1] in which the Commission

[1] See *Official Records of the Economic and Social Council, 1999, Supplement No. 3* (E/1999/23), chap. II, sect. A.

established the mechanism and defined its functions. At its sixty-first session, the Commission decided, in its resolution 2005/47,[2] to extend the Special Rapporteur's mandate for a further three years. The Human Rights Council, in decision 1/102,[3] extended the mandate for one year. In resolution 5/1,[4] the Council renewed the mandate until the date on which it will be considered by the Council according to the programme of work.

96. The international legal framework for the Special Rapporteur's work and the methods of work were reviewed in the report of 2006 to the Commission on Human Rights at its sixty-second session (E/CN.4/2006/73 and Add.1 and 2).

97. During the reporting period, the Special Rapporteur, Jorge Bustamante, submitted to the Human Rights Council a report on responses of Member States to a questionnaire on the impact of certain laws and administrative measures on migrants (A/HRC/4/24), a report on the communications sent to Governments and replies received (A/HRC/4/24/Add.1), a report on his Mission to the Republic of Korea (A/HRC/4/24/Add.2) and a report of his Mission to Indonesia (A/HRC/4/24/Add.3).

98. The Special Rapporteur submitted to the General Assembly at its previous session an interim report (A/61/324) reflecting his activities in detail.

99. Between 5 and 11 December 2006, the Special Rapporteur visited the Republic of Korea. The main purposes of the visit were to assess the prevailing situation of migrants living in the Republic of Korea and to promote the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. During his visit the Special Rapporteur encouraged the Government to provide incentives for the voluntary return of migrants rather than expelling them, in accordance with procedural guarantees against forced return.

100. At the invitation of the Government of Indonesia, the Special Rapporteur visited the country from 12 to 21 December 2006. The main objective of the mission was to examine all aspects of the migration process from Indonesia, giving particular attention to the situation of female domestic workers.

101. In 2008, the Special Rapporteur intends to visit Mexico, Guatemala and South Africa. He would like to thank the Governments of these countries for agreeing to his requests to visit.

IV. Status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

102. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families entered into force on 1 July 2003. As of 23 August 2007, 37 States had ratified the Convention: Albania, Algeria, Argentina, Azerbaijan, Belize, Bolivia, Bosnia and Herzegovina, Burkina Faso, Cape Verde, Chile, Colombia, Ecuador, Egypt, El Salvador, Ghana, Guatemala, Guinea,

[2] Ibid., *2005, Supplement No. 3* and corrigenda (E/2005/23 and Corr.1 and 2), chap. II, sect. A.

[3] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 53* (A/61/53), chap. II, sect. B.

[4] See A/HRC/21, chap. I, sect. A.

Honduras, Kyrgyzstan, Lesotho, Libyan Arab Jamahiriya, Mali, Mauritania, Mexico, Morocco, Nicaragua, Peru, Philippines, Senegal, Seychelles, Sri Lanka, Syrian Arab Republic, Tajikistan, Timor-Leste, Turkey, Uganda and Uruguay. The entry into force of the Convention assists in securing a protective mechanism for the human rights of migrants, including those in an irregular situation. All Member States that have not yet become a party to the Convention are urged to consider acceding to this instrument promptly.

V. Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

103. The Committee, composed of independent experts, monitors implementation of the Convention by its States parties. Since its first session, held in March 2004, the Committee has considered the initial reports submitted by Mali, Mexico and Egypt.

104. The Committee considered the initial report of Mali (CMW/C/MLI/1) at its fourth session, held in April 2006. In its concluding observations (CMW/C/MLI/CO/1), the Committee recommended, inter alia, that the State party include in its second periodic report updated information supported by statistics and actual examples of the concrete measures it has taken to implement the rights of migrant workers as set out in the Convention, and that it provide training to officials working in the area of migration. It also recommended that the State party intensify its efforts to combat trafficking in women and in children, in cooperation with international, governmental and non-governmental organizations, and that it implement the recommendations made in this regard by the Human Rights Committee and the Committee on the Rights of the Child.

105. The Committee considered the initial report of Mexico (CMW/C/MEX/1) at its fifth session, held in October 2006. In its concluding observations (CMW/C/MEX/CO/1), the Committee recommended, inter alia, that the State party withdraw its reservation to article 22, paragraph 4, of the Convention;[5] that it direct its efforts towards the formulation of a migration law which corresponds to the new migration situation in Mexico and is in conformity with the provisions of the Convention and other applicable international instruments; that it continue training all officials working in the area of migration, especially at the local level; that it intensify its efforts to ensure that all migrant workers and members of their families within its territory or subject to its jurisdiction enjoy the rights provided for in the Convention without any discrimination; that it ensure that, in legislation and in practice, migrant workers and members of their families, including those in an irregular situation, have the same rights as nationals of the State party to file complaints and have access to redress mechanisms before the courts; that it continue and step up its efforts to address as a matter of urgency the problem of ill-treatment and other acts of violence against migrant workers and their families, regardless of who is responsible; that the State party, and more specifically the National Institute

[5] Paragraph 4 of article 22 states: "Except where a final decision is pronounced by a judicial authority, the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority, unless compelling reasons of national security require otherwise. Pending such review, the person concerned shall have the right to seek a stay of the decision of expulsion."

for Migration, take appropriate steps to ensure that migration control and securing of migrants are carried out exclusively by the competent authorities and that every violation in this regard is promptly reported; that it take appropriate measures to protect women domestic workers, including access to regular migration status and greater and more systematic involvement of the labour authorities in monitoring their working conditions; and that it pay particular attention to the vulnerable situation of migrant unaccompanied minors.

106. The Committee considered the initial report of Egypt (CMW/C/EGY/1) at its sixth session, held in April 2007. In its concluding observations (CMW/C/EGY/CO/1), it recommended, inter alia, that the State party review its reservations to article 4[6] and article 18, paragraph 6,[7] of the Convention, with a view to withdrawing them; that it initiate training for all officials working in the area of migration, in particular police and border personnel as well as officials at the local level; that it ensure that in legislation and in practice, migrant workers and members of their families, including those in an irregular situation, have the same rights as nationals of the State party to file complaints and have access to redress mechanisms before the courts; that passports are issued to all women who request a passport without the permission of any third party; that adequate training be provided to all judicial personnel and law enforcement officials on respect for human rights and non-discrimination on ethnic or racial grounds; that the State party amend article 27 of the Egyptian Labour Code and ensure that all migrant workers benefit from equal treatment in respect of remuneration and other conditions of work and employment; that medical tests of migrant workers be in conformity with the Code of Practice on HIV/AIDS and the world of work of the International Labour Organization and the International Guidelines on HIV/AIDS and Human Rights;[8] that each child born in Egypt of a migrant worker be ensured the right to a name, to registration at birth and to a nationality in accordance with article 29 of the Convention; that the State party grant all children of migrant workers, whether documented or undocumented, access to schools on the basis of equality of treatment with Egyptian children in accordance with article 30 of the Convention; that the Labour Code be amended in order to apply to domestic workers, including migrant domestic workers, or that new legislation be adopted to provide protection to them; that consular services respond more effectively to the need for protection of Egyptian migrant workers and members of their families and, in particular, provide the necessary assistance to those in detention and promptly issue travel documents to all Egyptian migrant workers and members of their families who wish or have to return to Egypt; that the State party encourage its embassies and consulates to

[6] Article 4 states: "For the purposes of the present Convention the term 'members of the family' refers to persons married to migrant workers or having with them a relationship that, according to applicable law, produces effects equivalent to marriage, as well as their dependent children and other dependent persons who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned."

[7] Paragraph 6 of article 18 states: "When a migrant worker or a member of his or her family has, by a final decision, been convicted of a criminal offence and when subsequently his or her conviction has been reversed or he or she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to that person."

[8] United Nations publication, Sales No. E.06.XIV.4.

provide assistance to migrant workers who are subject to such a "sponsorship" or *kafalah* system designed to give the sponsor control over them, and that it endeavour to negotiate with the relevant countries of destination with a view to the system being abolished; and that it adopt specific anti-trafficking legislation.

107. In addition to examining States parties' reports, the Committee held a day of general discussion on 15 December 2005, during its third session, on the theme "Protecting the rights of migrant workers as a tool to enhance development". At its fourth session, it adopted a written contribution to the General Assembly's High-level Dialogue on Migration and Development (A/61/120), which took place on 14 and 15 September 2006.

VI. Conclusions and recommendations

108. **The Secretary-General welcomes the responses submitted by Member States on various aspects of initiatives and legislation that they have adopted to protect migrants; he commends in particular those States that have paid special attention to migration issues by submitting specific information in the previous two reporting periods. The Secretary-General encourages those States that have not done so to provide him with such information.**

109. **The Secretary-General also welcomes the legislation enacted and the measures adopted by several States to ensure that the rights of migrants are respected in full, as well as measures adopted in order to protect their citizens who have migrated abroad.**

110. **The Secretary-General welcomes the efforts made by several Member States to adopt a comprehensive and balanced approach to migration, acknowledging the responsibilities of countries of origin, transit and destination in promoting and protecting the human rights of migrants and avoiding approaches that may aggravate their vulnerability.**

111. **The Secretary-General reminds Member States that in his report to the General Assembly at its sixtieth session (A/60/272, para. 56), he recommended that States should include in future responses information on good practices, as well as obstacles, with respect to the protection of migrants.**

112. **The Secretary-General encourages the Special Rapporteur on the human rights of migrants to continue his dialogue with Member States and to maintain his programme of country visits, in his endeavour to secure the protection of the human rights of migrants, in particular women and children.**

113. **The Secretary-General encourages States to adopt programmes aimed at fully integrating migrants and members of their families into the host countries and promoting a harmonious, tolerant and respectful environment, and expresses his appreciation to those States that have already done so.**

114. **The Secretary-General encourages States to adopt national plans of action, paying special attention to issues relating to migration, and encourages States that have already approved such plans to implement them in full.**

115. **The Secretary-General encourages the States that have signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families to ratify the Convention; he also urges**

States that have not done so to adhere to this instrument. The Secretary-General further encourages States parties to make the declarations under articles 76 and 77 of the Convention recognizing the competence of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to receive and consider inter-State and individual complaints.

116. The Secretary-General is encouraged by the work of the Committee. He urges States parties to submit their initial reports on the measures taken to give effect to the provisions of the Convention.

117. The Secretary-General requests Member States to consider ratifying the United Nations Convention against Transnational Organized Crime and the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention, and to implement them fully.